

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission of MH/DD/SAS intends to adopt the rules cited as 10A NCAC 27G .1701-.1708 and amend the rule cited as 10A NCAC 27G .1301.

Proposed Effective Date: March 1, 2006

Public Hearing:

Date: January 18, 2006

Time: 2:00 p.m.

Location: Holiday Inn (North)-2805 Highwoods Blvd., Raleigh, NC 27604

Reason for Proposed Action: The proposed amendment of 10A NCAC 27G .1301 and the adoption of 10A NCAC 27G .1700 is necessary to strengthen current residential treatment facility licensure rules.

The proposed rule changes represent the first part of comprehensive plan to revamp the child residential treatment service continuum. The proposed rules add additional safeguards for children and adolescents and establish higher standards for providers of residential treatment services.

Procedure by which a person can object to the agency on a proposed rule: The objection, reasons for the objection and the clearly identified portion of the rule to which the objection pertains, may be submitted in writing to Cindy Kornegay, 3018 Mail Service Center, Raleigh, NC 27699-3018.

Comments may be submitted to: Cindy Kornegay, 3018 Mail Service Center, Raleigh, NC 27699-3018, phone (919)715-2780, fax (919)733-1221 or email cindy.kornegay@ncmail.net.

Comment period ends: January 18, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- ☒ **State** – 10A NCAC 27G .1701-.1708
☒ **Local** – 10A NCAC 27G .1701-.1708
☒ **Substantive** (>\$3,000,000) – 10A NCAC 27G .1701-.1708
☐ **None**

CHAPTER 27 – MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .1300 - RESIDENTIAL TREATMENT FOR CHILDREN OR ADOLESCENTS

10A NCAC 27G .1301 SCOPE

(a) The rules of this Section apply only to a residential treatment facility that provides residential treatment, level II, program type service.

(b) A residential treatment facility providing residential treatment, level III service, shall be licensed as set forth in 10A NCAC 27G .1700.

(c) A residential treatment facility for children and adolescents is a free-standing residential facility which provides a structured living environment within a system of care approach for children and or adolescents who have a primary diagnosis of mental illness or emotional disturbance and who may also have other disabilities. ~~disabilities and for whom removal from home is essential to facilitate treatment.~~

(d) Services shall be designed to address the functioning level of the child or adolescent and include training in self-control, communication skills, social skills, and recreational skills. ~~Some children~~ Children or adolescents may be able to ~~may~~ receive services in a day treatment facility, have a job placement, or attend public school. ~~schools; for others, special education services may need to be offered within the residential setting.~~

(e)(e) Services shall be designed to support the child or adolescent in gaining the skills necessary to return to the natural, or therapeutic home setting. ~~The target populations to be served in a residential setting are children and adolescents for whom~~

~~removal from home to a community-based residential setting is essential to facilitate treatment. Residential treatment is targeted toward children and adolescents who no longer meet criteria for inpatient psychiatric services or intensive residential treatment and need a step-down placement in the community, or those who have been placed in non-residential community setting and need a more intensive treatment program.~~

~~(f)(d) Treatment, services, and discharge plans provided by. The residential treatment facilities facility shall coordinate be coordinated with other individuals and agencies within the client's local system of care.~~

Authority G.S. 122C-26; 143B-147.

SECTION .1700 - RESIDENTIAL TREATMENT STAFF SECURE FOR CHILDREN OR ADOLESCENTS

10A NCAC 27G .1701 SCOPE

(a) A residential treatment staff secure facility for children or adolescents is one that is a free-standing residential facility that provides intensive, active therapeutic treatment and interventions within a system of care approach. It shall not be the primary residence of an individual who is not a client of the facility.

(b) Staff secure means staff are required to be awake during client sleep hours and supervision shall be continuous as set forth in Rule .1704 of this Section.

(c) The population served shall be children or adolescents who have a principal diagnosis of mental illness, emotional disturbance or substance-related disorders; and may also have co-occurring disorders including developmental disabilities. These children or adolescents shall not meet criteria for inpatient psychiatric services.

(d) The children or adolescents served shall require the following:

- (1) removal from home to a community-based residential setting in order to facilitate treatment; and
- (2) treatment in a staff secure setting.

(e) Services shall be designed to:

- (1) include individualized supervision and structure of daily living;
- (2) minimize the occurrence of behaviors related to functional deficits;
- (3) ensure safety and deescalate out of control behaviors including frequent crisis management with or without physical restraint;
- (4) assist the child or adolescent in the acquisition of adaptive functioning in self-control, communication, social and recreational skills; and
- (5) support the child or adolescent in gaining the skills needed to step-down to a less intensive treatment setting.

(f) The residential treatment staff secure facility shall coordinate with other individuals and agencies within the child or adolescent's system of care.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1702 REQUIREMENTS OF QUALIFIED PROFESSIONALS

(a) Each facility shall utilize at least one direct care staff who meets the requirements of a qualified professional as set forth in 10A NCAC 27G .0104(18). In addition, this qualified professional shall have two years of direct client care experience.

(b) For each facility of five or less beds:

- (1) the qualified professional specified in Paragraph (a) of this Rule shall perform clinical and administrative responsibilities a minimum of 10 hours each week; and
- (2) 70% of the time shall occur when children or adolescents are awake and present in the facility.

(c) For each facility of six or more beds:

- (1) the qualified professional specified in Paragraph (a) of this Rule shall perform clinical and administrative responsibilities a minimum of 32 hours each week; and
- (2) 70% of the time shall occur when children or adolescents are awake and present in the facility.

(d) The governing body responsible for each facility shall develop and implement written policies that specify the clinical and administrative responsibilities of its qualified professional(s). At a minimum these policies shall include:

- (1) supervision of its associate professional(s) as set forth in Rule .1703 of this Section;
- (2) oversight of emergencies;
- (3) provision of direct psychoeducational services to children or adolescents;
- (4) participation in treatment planning meetings;
- (5) coordination of each child or adolescent's treatment plan; and
- (6) provision of basic case management functions.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1703 REQUIREMENTS FOR ASSOCIATE PROFESSIONALS

(a) In addition to the qualified professional specified in Rule .1702 of this Section, each facility shall have at least one full-time direct care staff who meets or exceeds the requirements of an associate professional as set forth in 10A NCAC 27G .0104(1).

(b) The governing body responsible for each facility shall develop and implement written policies that specify the responsibilities of its associate professional(s). At a minimum these policies shall address the following:

- (1) management of the day to day operations of the facility;

- (2) supervision of paraprofessionals regarding responsibilities related to the implementation of each child or adolescent's treatment plan;
- (3) participation in service planning meetings.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1704 MINIMUM STAFFING REQUIREMENTS

- (a) One direct care staff shall be present in the facility at all times when children or adolescents are away from the facility.
- (b) A qualified professional shall be available by telephone or page. An additional direct care staff shall be able to reach the facility within 30 minute at all times.
- (c) The minimum number of direct care staff required when children or adolescents are present and awake is as follows:
 - (1) two direct care staff shall be present for one, two, three or four children or adolescents;
 - (2) three direct care staff shall be present for five, six, seven or eight children or adolescents; and
 - (3) four direct care staff shall be present for 9, 10, 11 or 12 children or adolescents.
- (d) The minimum number of direct care staff during child or adolescent sleep hours is as follows:
 - (1) two direct care staff shall be present and awake for eight or less children or adolescents; and
 - (2) three direct care staff shall be present of which two shall be awake and the third may be asleep for 9, 10, 11 or 12 children or adolescents.
- (e) In addition to the minimum number of direct care staff set forth in Paragraphs (a)-(d) of this Rule, more direct care staff shall be required in the facility based on the child or adolescent's individual needs as specified in the treatment plan.
- (f) Each facility shall be responsible for insuring supervision of children or adolescents when they are away from the facility in accordance with the child or adolescent's individual strengths and needs as specified in the treatment plan.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1705 REQUIREMENTS OF LICENSED PROFESSIONALS

- (a) Face to face clinical consultation shall be provided in each facility at least four hours a week by a licensed professional. For purposes of this Rule, licensed professional means an individual who holds a license or provisional license issued by the governing board regulating a human service profession in the State of North Carolina. For substance-related disorders this shall include a certified Clinical Addiction Specialist or a Clinical Certified Supervisor.
- (b) The consultation specified in Paragraph (a) of this Rule shall include:
 - (1) clinical supervision of the qualified professional specified in Rule .1702 of this Section;
 - (2) individual, group or family therapy services; and
 - (3) involvement in child or adolescent specific treatment plans or overall program issues.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1706 OPERATIONS

- (a) Each facility shall serve no more than a total of 12 children and adolescents.
- (b) Family members or other legally responsible persons shall be involved in development of plans in order to assure a smooth transition to a less restrictive setting.
- (c) The residential treatment staff secure facility shall coordinate with the local education agency to ensure that the child's educational needs are met as identified in the child's education plan and the treatment plan. Most of the children will be able to attend school; for others, the facility will coordinate services across settings such as alternative learning programs, day treatment, or a job placement.
- (d) Psychiatric consultation shall be available as needed for each child or adolescent.
- (e) If an adolescent has his 18th birthday while receiving treatment in the facility, he may remain for six months or until the end of the state fiscal year, whichever is longer.
- (f) Each child or adolescent shall be entitled to age-appropriate personal belongings unless such entitlement is counter-indicated in the treatment plan.
- (g) Each facility shall operate 24 hours per day, seven days per week, and each day of the year.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1707 PERSONS PERMITTED IN THE FACILITY

- (a) Only admitted children or adolescents, legally responsible persons, staff, other family and friends identified in the treatment plan, and others permitted by the facility director shall be permitted on the premises.
- (b) Individuals other than those specified in Paragraph (a) of this Rule are prohibited from entering the facility except in instances of emergency or as permitted by law.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1708 TRANSFER OR DISCHARGE

- (a) The purpose of this Rule is to address the transfer or discharge of a child or adolescent from the facility.

(b) A child or adolescent shall not be discharged or transferred from a facility, except in case of emergency, without the advance written notification of the treatment team, including the legally responsible person. For purposes of this Rule, treatment team means the same as the existing child and family team or other involved persons as set forth in Paragraph (c) of this Rule.

(c) The facility shall meet with existing child and family teams or other involved persons including the parent(s) or legal guardian, area authority or county program representative(s) and other representatives involved in the care and treatment of the child or adolescent, including local Department of Social Services, Local Education Agency and criminal justice agency, to make service planning decisions prior to the transfer or discharge of the child or adolescent from the facility.

(d) In case of an emergency, the facility shall notify the treatment team including the legally responsible person of the transfer or discharge of the child or adolescent as soon as the emergency situation is stabilized.

(e) In case of an emergency, notification may be by telephone. A service planning meeting as set forth in Paragraph (c) of this Rule shall be held within five business days of an emergency transfer or discharge.

Authority G.S. 122C-26; 143B-147.